

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,  
  
Plaintiff-Appellee,

UNPUBLISHED  
September 15, 2015

v

GREGORY ALLEN PHILLIPS,  
  
Defendant-Appellant.

No. 321745  
St. Clair Circuit Court  
LC No. 13-002366-FH

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Before: TALBOT, C.J., and WILDER and FORT HOOD, JJ.

PER CURIAM.

Defendant appeals as of right his jury trial convictions of operating or maintaining a methamphetamine laboratory, MCL 333.7401c(2)(f), maintaining a drug house, MCL 333.7405(1)(d), and assaulting, resisting, or obstructing a police officer, MCL 750.81d(1). Defendant was sentenced, as a fourth habitual offender, MCL 769.12, to 96 to 480 months' imprisonment for his operating or maintaining a methamphetamine laboratory conviction, 16 to 180 months' imprisonment for his maintaining a drug house conviction, and 16 to 180 months' imprisonment for his assaulting, resisting, or obstructing a police officer conviction. We affirm.

Defendant argues that insufficient evidence was presented to convict him of operating or maintaining a methamphetamine laboratory and maintaining a drug house. We disagree.

When reviewing an insufficient evidence claim, this Court reviews the record de novo. *People v Malone*, 287 Mich App 648, 654; 792 NW2d 7 (2010). We review the evidence in the light most favorable to the prosecution and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Dunigan*, 299 Mich App 579, 582; 831 NW2d 243 (2013). This Court will not interfere with the jury's assessment of the weight of the evidence or the credibility of the witnesses. *Id.*

The elements of operating or maintaining a methamphetamine laboratory are: (1) that the defendant used a building, structure, place, or area; and (2) that the defendant knew or had reason to know that the building, structure, place, or area was to be used as a location for manufacturing methamphetamine. *People v Meshell*, 265 Mich App 616, 624; 696 NW2d 754 (2005). The elements of maintaining a drug house are that "[a] person . . . shall not knowingly

keep or maintain a store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place, which is resorted to by persons using controlled substances<sup>1</sup> in violation of this article for the purpose of using these substances, or which is used for keeping or selling them in violation of this article.” *People v Bartlett*, 231 Mich App 139, 144; 585 NW2d 341 (1998), citing MCL 333.7405(1)(d). “The phrase ‘keep or maintain’ implies usage with some degree of continuity that can be deduced by actual observation of repeated acts or circumstantial evidence . . . that conduces to the same conclusion.” *People v Thompson*, 477 Mich 146, 155; 730 NW2d 708 (2007).

There was sufficient evidence for a rational trier of fact to convict defendant of operating or maintaining a methamphetamine laboratory and maintaining a drug house. There was substantial evidence presented that the neighboring apartments in question were used for manufacturing and using methamphetamine. Defendant does not dispute the strength of this evidence, but rather contends that the prosecutor failed to show his connection to the apartments and materials inside. Defendant’s primary complaint on appeal is that the prosecutor presented only circumstantial evidence to prove that defendant knowingly used the apartments to manufacture methamphetamine. However, circumstantial evidence and reasonable inferences arising from that evidence may constitute proof of the elements of the crime. *People v Bennett*, 290 Mich App 465, 472; 802 NW2d 627 (2010).

There was sufficient evidence to show that defendant had knowledge of and used the apartments for methamphetamine production. St. Clair County Sheriff Jason Sklba repeatedly observed defendant going in and out of both apartments without a key. Additionally, when the search warrant was being executed, defendant was seen exiting the window from the upstairs apartment. Clothing consistent in size with defendant was found in one of the bedrooms in one of the apartments. The presence of clothing consistent with defendant’s size, combined with the fact that he was seen multiple times outside of the apartments, suggests that defendant used the dwelling with some degree of continuity. Further, records showed that defendant attempted to purchase Pseudoephedrine, frequently used in the manufacturing of methamphetamine, 10 times between early January 2013 and March 2013, and was blocked from purchasing Pseudoephedrine three times because he exceeded federal and state guidelines for purchases. Defendant also attempted to purchase Pseudoephedrine nine times between June 29, 2013, and August 4, 2013, and was blocked from purchasing Pseudoephedrine three times. After defendant was blocked from purchasing Pseudoephedrine, his girlfriend, Andrea Scott, purchased Pseudoephedrine twice in August 2013. Scott’s last purchase was the day before the search warrant was executed. Accordingly, when viewed in the light most favorable to the prosecution, a rational trier of fact could have found that defendant had knowledge of and used the apartments for methamphetamine production.

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<sup>1</sup> Methamphetamine is a controlled substance. MCL 333.7214(c)(ii).

Affirmed.

/s/ Michael J. Talbot

/s/ Kurtis T. Wilder

/s/ Karen M. Fort Hood